

APPEAL NO. 030154
FILED MARCH 10, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 19, 2002. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the first, third, and fourth quarters, but not the second quarter. The appellant (carrier) appeals the determination with regard to the first, third, and fourth SIBs quarters on legal and sufficiency of the evidence grounds. No response was filed. The hearing officer's determination with regard to the second SIBs quarter was not appealed and is, therefore, final. Section 410.169.

DECISION

Affirmed.

The carrier first asserts that the claimant is not entitled to SIBs because the claimant's impairment rating (IR) is on appeal at the district court and has not been finally adjudicated. The Appeals Panel affirmed an IR of 23% in Texas Workers' Compensation Commission Appeal No. 020964, decided June 6, 2002. Section 410.205(b) provides that during the pendency of an appeal to the district court a benefits decision of the Appeals Panel is binding. See Texas Workers' Compensation Commission Appeal No. 961553, decided September 20, 1996, and cases cited therein. Accordingly, we will not disturb the hearing officer's determination on these grounds.

The hearing officer did not err in determining that the claimant is entitled to first, third and fourth quarter SIBs. At issue was whether the claimant had a total inability to work during the qualifying periods. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TRANSPORTATION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge